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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,796	09/23/2003	William B. Dawson	KEY 1028USC2	4101
9561 7590 12/19/2006 POPOVICH, WILES & O'CONNELL, PA 650 THIRD AVENUE SOUTH SUITE 600 MINNEAPOLIS, MN 55402			EXAMINER A, PHI DIEU TRAN	
			ART UNIT	PAPER NUMBER
			3637	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		12/19/2006	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/668,796

Applicant(s)

DAWSON ET AL.

Examiner

Phi D. A

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,8,9,14,15 and 19 is/are pending in the application.
- 4a) Of the above claim(s) 14 and 15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,8,9,19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/8/06</u> . | 6) <input type="checkbox"/> Other: _____  |

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 8, 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Samuel et al (3086327).

Samuel et al (figures 11, 4) shows a landscaping block comprising a top surface(54) and an opposed bottom surface (opposite top surface), first and second opposed sides (figure 11 where part 52 is, including the space not cover by part 52), each side extending from the top surface to the bottom surface, opposed substantially planar first and second ends (44, and the opposite thereof), each end extending from the top surface(54) to the bottom surface(bottom of 44) and from the first side to the second side, the first end (figure 11 where the edge 46 is) being wider than the second end (44) at a surface selected from the top and bottom surfaces, the first end being larger in area than the second end, the first side including a first upper face(the thickness of the part 54, figure 11) extending from the top to a first ledge (the area not covered by part 54), the first ledge extending to a first lower face, the first ledge extending outwardly from the first upper face, the first side comprising only one ledge (the embodiment when only one part 54 is present, col 4 line 16), the second side comprising a second upper face (the other side of part 54 and its thickness thereof) extending from the top to a second ledge (the opposite ledge figure 11), the second ledge extending to a second lower face, the second ledge extending

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outward from the second upper surface, the second side comprising only one ledge ( the embodiment when only one part 54 is present, col 4 line 16).

Per claim 8, Samuel et al shows all the claimed structural limitations. The block inherently is able to function as claimed by interlocking when the first side of the landscaping block is placed adjacent the second side of another landscaping block.

3. Claim 9 is rejected under 35 U.S.C. 102(b) as being anticipated by Samuel et al (3086327).

Samuel et al ( figures 4, 8, 11) shows a landscaping block system comprising multiple blocks (figure 8), each block having a top surface(54) and an opposed bottom surface (opposite top surface), first and second opposed sides (figure 11 where part 52 is, including the space not cover by part 52), each side extending from the top surface to the bottom surface, opposed substantially planar first and second ends (44, and the opposite thereof), each end extending from the top surface(54) to the bottom surface(bottom of 44) and from the first side to the second side, the first end (figure 11 where the edge 46 is) being wider than the second end (44) at a surface selected from the top and bottom surfaces, the first end being larger in area than the second end, the first side including a first upper face(the thickness of the part 54, figure 11) extending from the top to a first ledge (the area not covered by part 54), the first ledge extending to a first lower face, the first ledge extending outwardly from the first upper face, the first side comprising only one ledge (the embodiment when only one part 54 is present, col 4 line 16), the second side comprising a second upper face (the other side of part 54 and its thickness thereof) extending from the top to a second ledge (the opposite ledge figure 11), the second ledge extending to a second lower face, the second ledge extending outward from the second upper face, the second

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side comprising only one ledge ( the embodiment when only one part 54 is present, col 4 line 16), the blocks being positioned such that when the first side of the landscaping block being placed adjacent the first or second side of another of the landscaping blocks, the first and second ledges forming an interlocking relationship (inherently capable of functioning as claimed).

4. Claims 1, 8, 9, 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Scheiwiller (4627764).

Scheiwiller (figures 1, 10) shows a landscaping block system comprising multiple blocks (figure 3), each block comprising a top surface(4) and an opposed bottom surface (opposite top surface), first and second opposed sides (3 and the side to the left), each side extending from the top surface to the bottom surface, opposed substantially planar first and second ends (figure 1, the ends to the front and back of the block), each end extending from the top surface to the bottom surface and from the first side to the second side, the first end (figure 10; the end which is wider) being wider than the second end (figure 10 shows another possible version of the end of figure 1 and is clearly disclosed on column 2 lines 52-53 to have tapering end to enable the stone to be laid down into a circle) at a surface selected from the top and bottom surfaces, the first end being larger in area than the second end, the first side including a first upper face(from the edge of surface 4 to the bottom of recess 2, figure 1) extending from the top to a first ledge, the first ledge extending to a first lower face, the first ledge (beginning at the bottom of recess 4 to the top of side 3) extending outwardly from the first upper face, the first side comprising only one ledge, the second side comprising a second upper face (from the edge of surface 4 to the bottom of recess 2, figure 1) extending from the top to a second ledge (beginning at the bottom of recess 4 to the top of side 3), the second ledge extending to a second lower face, the second ledge

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extending outward from the second upper face, the second side comprising only one ledge, the blocks being positioned such that when the first side of the landscaping block being placed adjacent the first or second side of another of the landscaping blocks, the first and second ledges forming an interlocking relationship (inherently capable of functioning as claimed).

Per claim 8, Scheiwiller shows all the claimed structural limitations. The block inherently is able to function as claimed by interlocking when the first side of the landscaping block is placed adjacent the second side of another landscaping block.

#### ***Response to Arguments***

Applicant's arguments filed 6/7/06 to claims 1, 8-9, 19 have been fully considered but they are not persuasive.

Applicant states that Samuel does not show the ends being substantially planar, examiner respectfully disagrees. As pointed out in the rejection, the ends are part 44 and its opposing end. The claim has comprising language and does not exclude the structure from having a ledge on top of the ends. The argument is thus moot.

With respect to Scheiwiller, examiner respectfully points out that the reference shows the ends being substantially planar as claimed. Figure 1 shows the ends being substantially planar and figure 10 further discloses the ends can be tapering. Also, claims use comprising language which does not prevent the reference from having other structures/parts. The argument is thus moot.

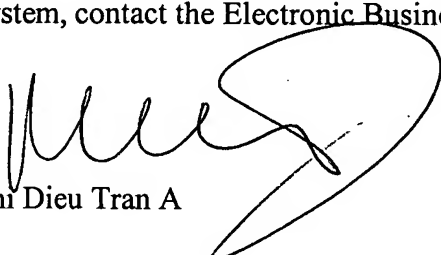
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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 571-272-6864. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Phi Dieu Tran A

12/7/06